



Comptroller General  
of the United States  
Washington, D.C. 20548

## Decision

**Matter of:** Wheco Corporation  
**File:** B-248978; B-248980  
**Date:** October 13, 1992

Richard L. Hames, Esq., Davis Wright Tremaine, for the protester.  
Paul M. Fisher, Esq., Department of the Navy, for the agency.  
Kenneth A. Redden, Glenn G. Wolcott, Esq., and Paul I. Lieberman, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

1. Where solicitation specifically required offerors to identify the journeymen they intended to use in contract performance and stated that the agency would evaluate those personnel, agency reasonably rejected protester's proposal as technically unacceptable for failing to identify journeymen it intended to use.
2. Supplemental protest issues which are raised more than 10 days after protester knew, or should of known, of bases for protest are dismissed as untimely.

### DECISION

Wheco Corporation (Wheco) protests the award of two contracts to Gibbs International Trucks, Inc. (Gibbs) under requests for proposals (RFP) Nos. N47408-92-R-2000 and N47408-92-R-2001, issued by the Department of the Navy for the refurbishment of equipment used in operations "Desert Shield" and "Desert Storm." Wheco protests that the contracts should have been awarded to it on the basis that its proposals offered lower prices than Gibbs's proposals.

We deny the protests in part and dismiss them in part.

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<sup>1</sup>We have combined these protests because the pertinent provisions of both solicitations and the agency's evaluation of both proposals present the same issues.

The solicitations, issued by the Naval Facilities Engineering Command Contracts Office, Port Hueneme, California, contemplated the award of firm, fixed-price, indefinite quantity contracts for the overhaul and rehabilitation of automotive, construction, weight handling, and other specialized equipment used in operations "Desert Shield" and "Desert Storm." Section M of the solicitations set forth technical and management evaluation factors and stated that such factors, when combined, were equal in importance to price.

Section L of the solicitations contained instructions to offerors regarding preparation of technical and management proposals. Specifically, Section L.16 required offerors to submit "identification of journeymen repair personnel (minimum 2 years experience) and level of experience." Section M.4 of the solicitations listed an evaluation factor corresponding to this requirement, stating that proposals would be evaluated with regard to "Production Personnel: Journeymen personnel who will actually perform [the] inspection and repairs." The solicitations also stated that proposals must be technically acceptable in all areas in order to be eligible for contract awards, and reserved the agency's right to make awards on the basis of initial proposals without conducting discussions.

Six firms, including Wheco and Gibbs, submitted proposals by the appropriate closing dates. In responding to the solicitations, Wheco chose not to list or otherwise identify the particular journeymen it intended to use to perform the contracts. Rather, Wheco's proposal contained several "sample resumes" from job applicants; these "sample resumes" were documents listing various individuals' backgrounds and qualifications--but with the names of the individuals blotted out. In contrast, Gibbs responded to the RFP by naming 18 journeymen that it intended to use in performing the contracts and provided information regarding the experience and qualifications of each of those individuals. Both of Wheco's proposals offered slightly lower prices than Gibbs's proposals.<sup>2</sup>

The agency's technical evaluation board (TEB) scored each proposal and provided narrative explanations addressing the proposals' respective strengths and weaknesses. In evaluating Wheco's proposal, the agency evaluators were unable to ascertain the identity of the journeymen Wheco intended to use and, thus, determined that Wheco's proposal

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<sup>2</sup>Wheco's proposed price under RFP No. N474408-91-R-2000 was \$3,435,249; Gibbs's proposed price was \$3,504,407. Wheco's proposed price under RFP No. N47408-91-R-2001 was \$3,539,710; Gibbs's proposed price was \$3,619,885.

merited no points in this area. Wheco's proposal was determined to be technically unacceptable due to its failure to comply with this RFP requirement.

Of the proposals judged technically acceptable, Gibbs's proposals offered the lowest prices, and the agency awarded contracts to Gibbs on May 21. By letter of May 29, the protester filed agency-level protests; the agency denied those protests on June 5, and these protests followed.

Wheco protests that the agency improperly found its proposals to be technically unacceptable based on Wheco's failure to identify the specific journeymen it intended to use to perform the contract and maintains that, since its proposed prices were less than Gibbs's prices, it should have received the contract awards.

It is well settled that an offeror has an obligation to submit a proposal that fully demonstrates the technical acceptability of its offered product or service. Compressed Air Equip., B-246208, Feb. 24, 1992, 92-1 CPD ¶ 220. Where an offeror fails to clearly set forth in its proposal the technical information necessary to convince the procuring agency that its proposal meets the agency's minimum needs, the agency may reasonably find the proposal technically unacceptable. Id.

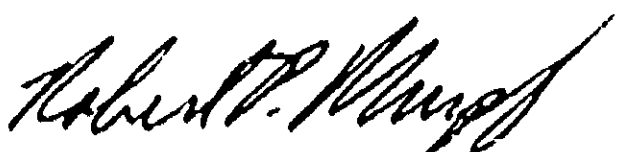
Here, the RFP unambiguously stated that offerors must submit "identification of journeymen repair personnel (minimum 2 years experience) and level of experience" and specifically advised offerors that proposals would be evaluated on the basis of the journeymen proposed. The RFP also stated that proposals must be found technically acceptable in all areas in order to be eligible for contract award. Wheco's submission of "sample resumes" which did not indicate the identity of specific individuals does not satisfy the RFP requirement that offerors submit "identification of journeymen repair personnel." Accordingly, the agency reasonably found Wheco's proposal to be technically unacceptable in this regard. See International Mktg. Servs. Enters., Inc., B-246232, Feb. 24, 1992, 92-1 CPD ¶ 222.

To the extent Wheco's protests are based on the assertion that Wheco should have received the contract awards due to its lower proposed prices, it is well settled that a technically unacceptable offer cannot be considered for award, notwithstanding its low price. Color Ad Signs and Displays, B-241544, Feb. 12, 1991, 91-1 CPD ¶ 154. Thus, since the agency properly found Wheco's proposals to be technically unacceptable, the fact that Wheco proposed prices lower than those proposed by Gibbs provides no basis to sustain the protests.

After receiving the agency report responding to its protests, Wheco for the first time raised allegations regarding the agency's evaluation of Gibbs's proposals and the agency's decision to award contracts on the basis of initial proposals. Wheco received the agency report on July 15, 1992; however, it failed to raise the new bases for protest with our Office until August 5.

Our Bid Protest Regulations contain strict rules requiring timely submission of protests. Under these rules, protests challenging adverse agency actions must be filed no later than 10 working days after the protester knew, or should have known, of the basis for protest. 4 C.F.R. § 21.2(a)(2) (1992). Where a protester initially files a timely protest and subsequently supplements it with new and independent grounds, the later-raised allegations must independently satisfy the timeliness requirements. Midwest Contractors, Inc.; R.E. Scherrer, Inc., B-231101; B-231101.2, Aug. 8, 1988, 88-2 CPD ¶ 118. Since the issues raised by Wheco in its comments to the agency report fail to satisfy the timeliness requirements, those issues are dismissed.

The protests are denied in part and dismissed in part.

  
James F. Hinchman  
General Counsel